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ATTACHMENT A

CERTIFICATE OF PROCUREMENT INTEGRITY

PROCUREMENT OFFICIAL

1. I hereby certify that, to the best of my knowledge and belief, with the exception of any information described in this certificate, I have no information concerning a violation or possible violation of the prohibitions of paragraph (a), (b), (c), or (e) of Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), as implemented in the FAR and Agency supplements, occurring during the conduct of this procurement. The terms of those provisions, together with applicable regulations, have been made available to me. I am familiar with those provisions, and I understand my responsibility under the law not to engage in any conduct prohibited by the law and to report any violations or possible violations of the law to the contracting officer. I also understand that my responsibility not to disclose proprietary or source selection information will continue to apply if I resign or retire as a procurement official.
2. If, after the date of this certification, I become aware of any violation or possible violation described in the foregoing paragraphs of this certification, I will report it to the contracting officer or to the Procurement Executive.
3. Violations or possible violations (enter NONE if none exist). (Continue in plain bond paper, if necessary.)

Signature of Procurement Official

Date

Title

The prohibitions of Section 27 became effective 16 May 1989.

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES, AND THE MAKING OF FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER TITLE 18, UNITED STATES CODE, SECTION 1001.

ATTACHMENT A

Note: This format will be used to designate procurement officials. Upon completion, this designation memorandum will be retained by the contracting officer in the contract file.

MEMORANDUM FOR: Contracting Officer

SUBJECT: Designation of Procurement Officials

In accordance with Procurement Note 202, the following individuals are hereby designated procurement officials for the procurement of (products/service) _____ as described in (document) _____, dated _____. I have advised each individual that he/she has been designated for the subject procurement.

<u>NAME</u>	<u>OFFICE/TITLE</u>	<u>SOCIAL SECURITY NO.</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

If, at any time during the conduct of this procurement, any additional persons are designated procurement officials, I will identify such individuals to the contracting officer.

Project Officer

The procurement described above is hereby assigned to the following Contract No./Modification No. _____.

Contracting Officer

ATTACHMENT B

CERTIFICATE OF PROCUREMENT INTEGRITY

CONTRACTING OFFICER

1. I hereby certify to the Head of this Agency that, to the best of my knowledge and belief, with the exception of any information described in this certificate, I have no information concerning a violation or possible violation of the prohibitions of paragraph (a), (b), (c), or (e) of Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), as implemented in the FAR and Agency supplements, occurring during the conduct of this procurement (contract/modification number). The terms of those provisions, together with applicable regulations, have been made available to me. I am familiar with those provisions, and I understand my responsibility under the law not to engage in any conduct prohibited by the law and to report any violations or possible violations of the law to the Head of the Agency or his or her delegatee. I also understand that my responsibility not to disclose proprietary or sole source information will continue to apply if I resign or retire.
 2. If, after the date of this certification, I become aware of any violation or possible violation described in the foregoing paragraphs of this certification, I will report it to the Procurement Executive.
 3. Violations or possible violations (enter NONE if none exist). (Continue in plain bond paper, if necessary.)
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(Signature of Contracting Officer)

Date

The prohibitions of Section 27 became effective 16 May 1989.

THIS CERTIFICATE CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES, AND THE MAKING OF FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER TITLE 18, UNITED STATES CODE, SECTION 1001.

OFFICE OF FEDERAL PROCUREMENT POLICY ACT AMENDMENTS OF 1988

SEC. 6. PROCUREMENT INTEGRITY.

(a) Amendment.--The Office of Federal Procurement Policy Act is further amended by adding at the end the following:

"PROCUREMENT INTEGRITY

"Sec. 27. (a) PROHIBITED CONDUCT BY COMPETING CONTRACTORS.--During the conduct of any Federal agency procurement of property or services, no competing contractor or any officer, employee, representative, agent, or consultant of any competing contractor shall knowingly--

"(1) make, directly or indirectly, any offer or promise of future employment or business opportunity to, or engage, directly or indirectly, in any discussion of future employment or business opportunity with, any procurement official of such agency;

"(2) offer, give, or promise to offer or give, directly or indirectly, any money, gratuity, or other thing of value to any procurement official of such agency; or

"(3) solicit or obtain, directly or indirectly, from any officer or employee of such agency, prior to the award of a contract any proprietary or source selection information regarding such procurement.

"(b) PROHIBITED CONDUCT BY PROCUREMENT OFFICIALS.--During the conduct of any Federal agency procurement of property or services, no procurement official of such agency shall knowingly--

"(1) solicit or accept, directly or indirectly, any promise of future employment or business opportunity from, or engage, directly or indirectly, in any discussion of future employment or business opportunity with, any officer, employee, representative, agent, or consultant of a competing contractor;

"(2) ask for, demand exact, solicit, seek, accept, receive, or agree to receive, directly or indirectly, any money, gratuity, or other thing of value from any officer, employee, representative, agent, or consultant of any competing contractor for such procurement; or

"(3) disclose any proprietary or source selection information regarding such procurement directly or indirectly to any person other than a person authorized by the head of such agency or the contracting officer to receive such information.

"(c) DISCLOSURE TO UNAUTHORIZED PERSONS.--During the conduct of any Federal agency procurement of property or services, no person who is given authorized or unauthorized access to proprietary or source selection information regarding such procurement, shall knowingly disclose such information, directly or indirectly, to any person other than a person authorized by the head of such agency or the contracting officer to receive such information.

"(d) CERTIFICATION AND ENFORCEMENT MATTERS.--(1) A Federal agency may not award a contract for the procurement of property or services to any competing contractor, or agree to any modification or extension of a contract, unless the officer or employee of such contractor responsible for the offer or bid for such contract, or the modification or extension of such contract, as the case may be--

"(A)(i) certifies in writing to the contracting officer responsible for such contract that such officer or employee of the competing contractor has no information concerning a violation or possible violation of subsection (a), (c), or (e), or applicable implementing regulations, pertaining to such procurement; or

"(ii) discloses to such contracting officer any and all such information and certifies in writing to such contracting officer that any and all such information has been disclosed; and

"(B) certifies in writing to such contracting officer that each officer, employee, agent, representative, and consultant of such competing contractor who has participated personally and substantially in the preparation or submission of such bid or offer, or in such modification or extension of such contract, as the case may be, has certified to such competing contractor that he or she--

"(i) is familiar with, and will comply with, the requirements of subsection (a) and applicable implementing regulations; and

"(ii) will report immediately to the officer or employee of the competing contractor responsible for the offer or bid for any contract or the modification or extension of such contract, as the case may be, any information concerning a violation or possible violation of subsection (a), (b), (c), or (e), or such applicable implementing regulations, pertaining to such procurement.

"(2) A Federal agency may not award a contract for the procurement of property or services, or agree to any modification or extension of any such contract, unless the contracting officer responsible for such procurement--

"(A) certifies in writing to the head of such agency that the contracting officer has no information concerning a violation or possible violation of subsection (a), (b), (c), or (e), or applicable implementing regulations, pertaining to such procurement; or

"(B) discloses to the head of such agency any and all such information and certifies in writing that any and all such information has been disclosed.

"(3) The head of a Federal agency may require any procurement official or any competing contractor, at any time during the conduct of any Federal agency procurement of property or services--

"(A) to certify in writing to the head of such agency that such procurement official or the officer or employee of the competing contractor responsible for the offer or bid for such contract or the modification or extension of such contract, as the case may be, has no information concerning a violation or possible violation of subsection (a), (b), (c), or (e), or applicable implementing regulations, pertaining to such procurement; or

"(B) to disclose to the head of such agency any and all such information and to certify in writing that any and all such information has been disclosed.

"(4) If a procurement official leaves the Government during the conduct of such a procurement, such official shall certify that he or she understands the continuing obligation not to disclose proprietary or source selection information.

"(5) For the purposes of enforcing the requirements of this section, the contracting officer responsible for the conduct of a procurement shall maintain, as part of the procurement file--

"(A) all certifications made by procurement officials and competing contractors with regard to such procurement, as required by this subsection; and

"(B) a record of all persons who have been authorized by the head of the agency or the contracting officer to have access to proprietary or source selection information regarding such procurement.

"(6) Any person making a certification required by this subsection shall be notified of the applicability of section 1001 of title 18, United States Code, to false, fictitious, or fraudulent statements in such certification.

"(7)(A) This subsection applies only to contracts, extensions, and modifications in excess of \$100,000.

"(B) This subsection need not be applied to a contract--

"(i) with a foreign government or an international organization that is not required to be awarded using competitive procedures pursuant to section 303(c)(4) of the Federal Property and Administrative Services Act of 1949 or section 2304(c)(4) of title 10, United States Code:

"(ii) in an exceptional case, when the head of the Federal agency concerned determines in writing that this subsection should be waived pursuant to procedures and criteria established in implementing regulations issued pursuant to subsection (m) and notifies the Congress in writing of such determination.

The authority to make determinations under clause (II) of this subparagraph may not be delegated.

"(e) RESTRICTIONS ON GOVERNMENT OFFICIALS AND EMPLOYEES.--No Government official or employee, civilian, or military, who has participated personally and substantially in the conduct of any Federal agency procurement or who has personally reviewed and approved the award, motivation, or extension of any contract for such procurement shall--

"(1) participate in any manner, as an officer, employee, agent, or representative of a competing contractor, in any negotiations leading to the award, modification, or extension of a contract for such procurement, or

"(2) participate personally and substantially on behalf of the competing contractor in the performance of such contract,

during the period ending 2 years after the last date such individual participated personally and substantially in the conduct of such procurement or personally reviewed and approved the award, modification, or extension of any contract for such procurement.

"(f) CONTRACTUAL PENALTIES.--(1) Regulations issued pursuant to subsection (m) shall require that each contract awarded by a Federal agency contain a clause specified in such regulation that provides appropriate contractual penalties for conduct of any competing contractor prohibited by subsection (a) and for any such conduct of any officer, employee, agent, representative, or consultant of such contractor.

"(2) The following remedies are authorized to be included in, and shall be considered in the development of, such regulations:

"(A) Denial of payment of all or any portion of the profit component of amounts otherwise payable to the contractor by the Federal agency under the contract and recovery of all or any portion of the profit component of amounts paid to the contractor by the Federal agency under the contract.

"(B) Termination of the contract for default.

"(C) Any other appropriate penalty.

"(g) ADMINISTRATIVE ACTIONS.--(1) If an agency receives a disclosure of information pursuant to subsection (d) or otherwise receives or obtains

information providing a reasonable basis to believe that an officer, employee, agent, representative, or consultant of a competing contractor has knowingly violated the requirements of this section--

"(A) in the case of a procurement in which a contract has not been awarded, the agency shall determine whether to terminate the procurement or take other appropriate actions;

"(B) in the case of a procurement with respect to which a contract has been awarded, the agency shall determine whether to void or rescind the contract, to terminate the contract for default, to impose sanctions upon the contractor, or to permit the contractor to continue to perform the contract, subject to review in accordance with, and to the extent provided in, the Contract Disputes Act of 1978, or to take other appropriate actions; and

"(C) if the agency determines that such a knowing violation has occurred, the agency pursuant to procedures specified in the Federal Acquisition Regulation--

"(i) may impose an immediate suspension, and

"(ii) shall determine whether to initiate a debarment proceeding,

against the competing contractor or other person who committed such violation.

"(2) Any procurement official of a Federal agency who engages in conduct prohibited by subsection (b) or (c) shall be subject to removal or other appropriate adverse personnel action pursuant to the procedures specified in chapter 75 of title 5, United States Code, or other applicable law or regulation.

"(3) The actions taken under paragraph (1) or (2) may be suspended by the agency head upon the request of the Attorney General pending the disposition of any civil or criminal actions pursuant to subsections (h) and (i).

"(h) CIVIL PENALTIES.--Any person who engages in conduct prohibited by subsection (a), (b), (c), or (e) shall be subject to the imposition of a civil fine in a civil action brought by the United States in an appropriate district court of the United States. The amount of any such civil fine for such violation may not exceed--

"(1) \$100,000 in the case of an individual; or

"(2) \$1,000,000 in the case of a competing contractor (other than an individual).

"(i) CRIMINAL PENALTIES.--Whoever, during the conduct of a Federal agency procurement of property or services--

"(1) being a competing contractor or an officer, employee, representative, agent, or consultant of a competing contractor, knowingly and willfully solicits or obtains, directly or indirectly, from any officer or employee of such agency any proprietary or source selection information (as such terms are defined in subsection (n) and in regulations prescribed pursuant to subsection (m), or

"(2) being an officer or employee of such agency, knowingly and willfully discloses or promises to disclose, directly or indirectly, to any competing contractor or any officer, employee, representative, agent, or consultant of a competing contractor any proprietary or source selection information,

shall be imprisoned for not more than 5 years, or fined in accordance with title 18, United States Code, or both.

"(j) TRAINING.--The head of each Federal agency shall establish a procurement ethics program for its procurement officials. The program shall, at a minimum--

"(1) provide for the distribution of written explanations of the provisions of subsection (b) to such procurement officials; and

"(2) require each such procurement official, as a condition of serving as a procurement official, to certify that he or she is familiar with the provisions of subsection (b), and will not engage in any conduct prohibited by such subsection, and will report immediately to the contracting officer any information concerning a violation or possible violation of subsection (a), (b), (c), or (e), or applicable implementing regulations.

"(k) REMEDIES NOT EXCLUSIVE.--Nothing in this subsection shall be construed to limit the applicability of the requirements, sanctions, contract penalties, and remedies established under any other law, but no agency shall be relieved of the obligation to carry out the requirements of this section because such agency has also applied such other requirements, sanctions, contract penalties, or remedies.

"(1) NO AUTHORITY TO WITHHOLD INFORMATION.--Nothing in this section shall be construed to authorize the withholding of any information from the Congress, any committee or subcommittee thereof, a Federal agency, any board of contract appeals of a Federal agency, the Comptroller General, or an Inspector General of a Federal agency.

"(m) IMPLEMENTING REGULATIONS AND GUIDELINES.--Governmentwide regulations and guidelines deemed appropriate to carry out this section shall be issued in the Federal Acquisition Regulation within 180 days after the date of enactment of this section:

"(n) DEFINITIONS.--As used in this section:

"(1) The term 'during the conduct of any Federal agency procurement of property or services' means the period beginning with the development, preparation, and issuance of a procurement solicitation, and concluding with the award, modification, or extension of a contract, and includes the evaluation of bids or proposals, selection of sources, and conduct of negotiations.

"(2) The term 'competing contractor', with respect to any procurement (including any procurement using procedures other than competitive procedures) of property or services, means any entity that is, or is reasonably likely to become, a competitor for or recipient of a contract or subcontract under such procurement, and includes any other person acting on behalf of such an entity.

"(3)(A) The term 'procurement official' means any civilian or military official or employee of an agency who has participated personally and substantially in the conduct of the agency procurement concerned, including all officials and employees who are responsible for reviewing or approving the procurement, as further defined by applicable implementing regulations.

"(B) For purposes of subparagraph (A), the term 'employee of an agency' includes a contractor, subcontractor, consultant, expert, or adviser (other than a competing contractor) acting on behalf of, or providing advice to, the agency with respect to any phase of the agency procurement concerned.

"(4) The term 'contracting officer' means any official or employee of a Federal agency who has been authorized by the agency head or his or her designee to enter into, administer, or terminate contracts and make related determinations and findings.

"(5) The term 'Federal agency' has the meaning provided by section 3(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(b)).

"(6) The term 'proprietary information' means--

"(A) information contained in a bid or proposal;

"(B) cost or pricing data; or

"(C) any other information submitted to the Government by a contractor and designated as proprietary, in accordance with law or regulation, by the contractor, the head of the agency, or the contracting officer.

"(7) The term 'source selection information' means information determined by the head of the agency or the contracting officer to be information--

"(A) the disclosure of which to a competing contractor would jeopardize the integrity or successful completion of the procurement concerned; and

"(B) which is required by statute, regulation, or order to be secured in a source selection file or other restricted facility to prevent such disclosure;

as further defined by regulations issued pursuant to subsection (m) of this section."

(b) EFFECTIVE DATE.--The amendment made by subsection (a) shall take effect 180 days after the date of enactment of this Act.

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